

**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

ON THE 10th OF JANUARY, 2023

WRIT PETITION No. 11380 of 2018

BETWEEN:-

**PUSHPA CHOUHAN W/O ANIL KUMAR, AGED
ABOUT 42 YEARS, OCCUPATION: GOVERNMENT
SERVICE, R/O BALIKA CHHATRAWAS,
KHACHROD, DISTRICT UJJAIN (MADHYA
PRADESH)**

.....PETITIONER

(SHRI SEEMA SHARMA, LEARNED COUNSEL FOR THE PETITIONER.)

AND

**THE STATE OF MADHYA PRADESH, THROUGH
1. COMMISSIONER SANCHALAK RAJYA SHIKSHA
KENDRA, BHOPAL (MADHYA PRADESH)**

**2. DISTRICT COLLECTOR, UJJAIN, DISTRICT
UJJAIN (MADHYA PRADESH)**

**CHIEF EXECUTIVE OFFICER, ZILA PARIYOJNA
3. SANCHALAK, DISTRICT UJJAIN (MADHYA
PRADESH)**

**DISTRICT PROJECT COORDINATOR, ZILA
4. SHIKSHA KENDRA, UJJAIN (MADHYA
PRADESH)**

**BLOCK DEVELOPMENT OFFICER JANPAD
5. SHIKSHA KENDRA KHACHAROD (MADHYA
PRADESH)**

**6. WARDEN, BALIKA CHHATRAWAS, KHACHROD,
DISTRICT UJJAIN (MADHYA PRADESH)**

.....RESPONDENTS

(SHRI AMIT SINGH SISODIA, LEARNED GOVERNMENT ADVOCATE FOR THE RESPONDENT/STATE.)

This petition coming on for orders this day, the court passed the following:

ORDER

The petitioner has filed this present petition being aggrieved by the order of termination dated 26.04.2018 from the post of Assistant Warden, Balak Chhatrawas on the ground that she *prima facie* forged her High School and Higher Secondary School certificate.

Petitioner's case

2. Respondents issued the advertisement for the recruitment to the 10 posts of Teacher-cum-Assistant Warden for a fixed term. The petitioner was selected for the post of Assistant Warden after due verification of her educational qualification of High School, Higher Secondary and B.Sc. At the time of appointment, the petitioner submitted the original mark sheets of the High School Examination, Higher Secondary School Examination and B.Sc. and entries were made in the register maintained in the office after due verification all the documents were returned to her. Vide order dated 10.10.2007, the petitioner was given appointment on the post of Teacher-cum-Assistant Warden on a fixed salary of Rs.2,400/- initially for the period of six months. Thereafter renewal order dated 07.12.2010 has been issued extending the period for six months, thereafter vide order dated 28.03.2012, it was again extended for the period of one year.

3. The above appointment was made under Jila Shiksha

Kendra, District Ujjain and the appointment order was issued by Chief Executive Officer Jila Shiksha Kendra, District Ujjain with the prior approval of Collector-cum-District Mission Director. In the month of April 2018, Mrs Manisha Mishra was posted as Assistant Project Coordinator, Gender and she directed all the Assistant wardens to submit their self-certified Mark Sheets to verify their service records. Vide letter dated 27.02.2018 the petitioner was called upon to submit an original mark sheet to Assistant Project Coordinator, Gender.

4. The petitioner submitted a letter at the time of appointment on 10.10.2007 along with certified copies of those mark sheets which had already been received in the office of the Assistant Project Coordinator, (Gender) at the time of her appointment. The petitioner has also sent the scanned copy by way of e-mail.

5. A letter dated 08.03.2018 was issued to the petitioner by the District Coordinator alleging that at the time of verification of the mark sheet with the original mark sheet she has misbehaved with the Assistant Project Coordinator, (Gender). The petitioner submitted a reply that Smt. Manisha Mishra called all the original documents from all the wardens and returned but she has retained her documents and she is apprehending that she would falsely implicate her in a case by way of conspiracy.

6. The District Project Coordinator issued another show cause notice dated 20.03.2018 to the petitioner alleging that at the time of verification of the documents on 05.03.2018, she misbehaved with the In-charge Officer and directed to submit an explanation with the evidence within three days failing which ex-parte proceedings shall be

drawn. The petitioner submitted a reply denying all the allegations.

7. Thereafter, vide order dated 26.04.2018, the petitioner has been terminated from the service on the allegation that she has forged the High School and Higher Secondary School mark sheets by manipulating the year of the exams and date of birth. According to the contents of the impugned order, these mark sheets were sent to the Board of Secondary Education for verification and from where the report has been received that these mark sheets were manipulated, hence the show cause notice dated 05.04.2018 was issued and *prima facie* found that she has committed the forgery with the mark sheets of High School and Higher Secondary School hence the district recruitment committee has taken the decision to terminate the petitioner from the service.

8. After termination, an FIR was also lodged against her at the police station Madhav Nagar, Ujjain. The FIR was registered under Sections 420, 467, 468 and 471 of IPC, and this petitioner was arrested on 06.09.2018. She was released on bail after the period of 1 year, 5 months and 12 days on 18.02.2020. Thereafter she was put to trial vide Sessions Trial No.8/2019, and vide judgment dated 18.02.2020 she has been acquitted of all the charges by Additional Session Judge.

9. After the aforesaid acquittal, the petitioner submitted an application to the Chief Executive Officer for her reinstatement in the service and also filed an application before this Court (I.A. No.1972/2020).

Reply by the respondents

10. The respondents have filed the reply justifying the impugned

action that the petitioner forged her mark sheets of High School and Higher Secondary School by manipulating the year and date of birth hence, she has rightly been terminated after issuing a show cause notice, hence no interference is called for and writ petition be dismissed.

Appreciations and conclusion

11. The petitioner was appointed in the year 2007 and at the time of appointment the mark sheets of High School and Higher Secondary School were produced, after due verification, an appointment order was issued and the same was continued from time to time. In the year 2018, Mrs Manisha Mishra joined as Assistant Project Coordinator, (Gender) She had a dispute with the petitioner in respect of the grant of leave as she the petitioner was pregnant. Vide letter dated 05.02.2018 Mrs Mishra directed all the Assistant Wardens to submit self-attested or certified copies of Marksheets of the High School, Higher Secondary School and B.Sc.

12. The petitioner submitted her mark sheets which were retained by Mrs Mishra with her and returned the mark sheets to other wardens According to Mrs Mishra she noticed the changes in the year and date of birth of the petitioner and sent them to the Board of Secondary Education for verification. The District Level Selection Committee considered the case and submitted a report and on the basis of the said report the Chief Executive Officer-cum-District Project Coordinator has held that *prima facie* the petitioner has been found guilty of forging the Mark Sheet of High School and Higher Secondary School hence, she has been terminated. Surprisingly, no conclusive finding has been recorded only *prima facie* the petitioner was found guilty of forging the

mark sheets. Before leveling serious charges of forgery and terminating from service, a definite conclusion ought to have been recorded. By giving an opportunity of hearing. The report given by the Board of Secondary Education was not supplied to the petitioner. The committee did not record the reasons as to why she did all this manipulation when she was already in service and by doing this, she was not going to get anything extra in the service. It is not the case of the respondents that by changing the year and date of birth in the mark sheets she became eligible to get an appointment to the post of Assistant Warden.

13. Even if the respondents did not conduct any detailed inquiry by issuing a charge sheet and recorded conclusive findings against the petitioner, they got the full opportunity before the Sessions Judge to prove the charge of 420, 467, 468 and 471 of IPC against the petitioner. Before the Trial Court PW/1 who was posted as Assistant District Project Coordinator, Ujjain from 2006 to 2012 in Jila Shiksha Kendra, Ujjain deposed that in the year 2007, ten posts of Assistant Warden were advertised, in which she was one of the members in the Selection Committee, she received an application of the present petitioner along with Mark Sheet of 10th, 12th and B.Sc. and she found the documents correct, after due verification the petitioner was selected. Another prosecution witness Bharat Vyas (PW/2) who was also Assistant District Project Coordinator at the time of selection of the petitioner and was a member of the Selection Committee also deposed that the documents of the petitioner were found correct and the appointment order was issued.

14. Smt. Manisha Mishra also appeared as (PW/3) and deposed that she joined on 01.05.2017 as Assistant Project Coordinator in Jila

Shiksha Kendra, Ujjain as an Additional charge. She has admitted in cross-examination that till 2017 there was no complaint against the petitioner in respect of any irregularity and she was confronted with Ex.D/2 which is an application of the petitioner submitted on 25.07.2006 along with the document i.e. Mark Sheets, and after seeing it, she admitted that in the High School Mark Sheet, the year is written as 1994 and in Higher Secondary Mark Sheet the year is mentioned as 1996 hence, the Mark Sheet which was submitted in the year 2007, there was no manipulation and correction. She has also admitted in cross-examination that she made a complaint against the petitioner. Respondent of the deposition against the petitioner has been discarded by the learned Additional Session Judge.

15. The learned trial Court in paragraph No.30 of the judgment has discussed the entries in the register Ex.P/28 in which the name of the petitioner is written at Serial No.25 in which the year of the passing of the High School examination is written as 1994 and the year of the passing of Higher Secondary examination is correctly written as 1996 and held that these entries are correct on the basis of the Mark Sheets submitted at the time of selection. The Trial Court has also held that the prosecution has failed to prove that no motive has been established for making these manipulations in the Mark Sheets. The Trial Court has also held that the prosecution has not examined any handwriting expert to establish that the petitioner made all the manipulations in the Mark Sheet. The Trial Court has also held that the documents were all forged by a person possessing the same.

16. It is correct that the petitioner was not required to make all

these manipulations in the mark sheets because she was already working on the post. She was not going to get any extra benefit by changing the year in both the Mark Sheets. The Trial Court has held that she has been falsely implicated in the case by the department.

17. After examining all these facts and circumstances this court is of the opinion that the entire prosecution case is suspicious and the petitioner was removed from the post by way of conspiracy and by way of vindictive action she was falsely implicated in the criminal case. She was arrested and remained in jail for 1 year, 5 months and 12 days with a newborn baby. The trauma, harassment, mental agony and humiliation in society and family which she suffered are unimaginable. Therefore, this petition is not only liable to be **allowed** by quashing the impugned order, but she is also entitled to get a **compensation of Rs.5,00,000/- from the Government.**

18. This compensation is liable to be recovered from the Officer who was behind all these conspiracies against the petitioner to get her terminated from service with stigma and falsely implicated her in the Criminal case. She was terminated by way of stigmatic order and she was made to suffer in jail for 1 year, 5 months and 12 days all this conspiracy is done in the office of the Assistant Project Coordinator, (Gender), therefore, the Collector Ujjain is directed to conduct an impartial inquiry to find out as to who did this conspiracy against this petitioner and thereafter suitable disciplinary action be taken and amount of compensation be also recovered from him/her.

19. The impugned order of termination is quashed, and the petitioner be reinstated into the service with all consequential benefits.

The amount of Rs.5,00,000/- as compensation be paid in four weeks from the date of production of a certified copy of this order.

With the above direction, Writ Petition is allowed.

Certified copy as per rules.

(VIVEK RUSIA)
J U D G E

Divyansh